

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1/19/2024

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
UNITED STATES OF AMERICA,

-v-

TOMAS COLON
a/k/a "El Gallo",

Defendant.
-----X

STIPULATION AND ORDER

18 Cr. 526 (VEC)

WHEREAS, on or about December 1, 2023, this Court entered a Consent Preliminary Order of Forfeiture as to Specific Property/Money Judgment (the "Order of Forfeiture") (D.E 274) forfeiting all right, title and interest of the Defendant to the Government in \$131,595 in United States currency seized by the Government from a premises located at 351 21st Avenue, Paterson, New Jersey on or about July 26, 2018 (the "Specific Property");

WHEREAS, the Order of Forfeiture directed the United States to publish, for at least thirty (30) consecutive days, notice of the Order of Forfeiture, notice of the United States intent to dispose of the Specific Property, and the requirement that any person asserting a legal interest in the Specific Property must file a petition with the Court in accordance with the requirements of Title 21, United States Code, Sections 853(n)(2) and (3). The Order of Forfeiture further stated that the United States could, to the extent practicable, provide direct written notice to any person known to have an alleged interest in the Specific Property and as a substitute for published notice as to those persons so notified;

WHEREAS, on or about December 5, 2023, direct notice of the Order of Forfeiture also was sent by certified and electronic mail, to the following:

Wilson Colon
Paterson, NJ 07503

Hector Colon
Patterson, New Jersey 07503

King's Discount & 99 Cent Store ("King")
351 21st Avenue
Paterson, NJ 07501

(collectively, the "Noticed Parties")

WHEREAS, on or about January 5, 2024, King filed a petition asserting an interest in the Specific Property ("King Petition")(D.E. 429);

WHEREAS, on or about January 5, 2024, Envios de Valores La Nacional, Corp. d/b/a La Nacional ("La Nacional") filed a petition asserting an interest in the Specific Property ("La Nacional Petition")(D.E. 430);

WHEREAS, Defendant, the Noticed Parties and La Nacional are the only individuals and/or entities known by the Government to have an interest in the Specific Property;

WHEREAS, no petitions or claims to contest the forfeiture of the Specific Property have been filed, other than the King Petition and La Nacional Petition, and the time frame to do so has expired;

WHEREAS, the Government recognizes that the interest of La Nacional is superior to the Government's interest; and

WHEREAS, the United States, King, and La Nacional (collectively, the “Parties”) have agreed, in order to avoid further litigation, to resolve their claims in the Specific Property on the terms and conditions set forth below.

NOW THEREFORE, IT IS HEREBY STIPULATED, AGREED AND ORDERED, by and between the United States of America, by its attorney Damian Williams ~~Audrey Strauss, Acting~~ United States Attorney, Adam Hobson, Assistant United States Attorney of counsel, King, by and through its counsel Anthony J. Iacullo, Esq., La Nacional, and its counsel James V. Pomaco, Esq., that:

1. La Nacional has a superior interest in the Specific Property pursuant to Title 21 United States Code, Section 853(n)(6)(A), and the Government shall not seek to forfeit the Specific Property or otherwise include the Specific Property in a Final Order of Forfeiture.
2. King acknowledges La Nacional’s interest in the Specific Property and hereby withdraws the King Petition and any interest King asserted in the Specific Property.
3. Upon entry of this Stipulation and Order, the United States Marshals Service shall return the Specific Property to La Nacional in a manner consistent with the United States Marshals Service Automated Clearing House (“ACH”) Form to be completed by La Nacional through its attorney, James Pomaco, Esq.
4. King does not object to return of the Specific Property to La Nacional.
5. The terms of this Stipulation and Order shall be subject to approval by the Court. Violation of any terms or conditions herein shall be construed as a violation of an Order of the Court.
6. The Government’s agreement to this Stipulation and Order is expressly premised upon the truthfulness, accuracy and completeness in every material part of the

representations made by King, La Nacional and their respective counsel.

7. King and La Nacional are hereby barred from asserting, or assisting others in asserting, any claim, including third-party claims and any claim for attorney's fees and costs, against the United States or any of its agents and employees, including the Department of Justice ("DOJ"), United States Marshals Service ("USMS"), the Federal Bureau of Investigation ("FBI") and this Office (the "USAO-SDNY"), as well as any and all employees, officers, and agents of the DOJ, USMS, the FBI and the USAO-SDNY in connection with, or arising out of, the United States' seizure, restraint, custody, or control over the Specific Property. The Parties agree to execute any documentation to implement the terms of this Stipulation and Order.

8. King and La Nacional agree to hold harmless the United States, DOJ, the FBI, the SDNY-USAO, the USMS, and any and all employees, officers, and agents of said entities from any and all third party claims of ownership of the Specific Property.

9. Each party signing this Stipulation and Order warrants that they are authorized to sign this Stipulation and Order on behalf of the party for whom their signature appears.

10. The Parties hereby agree to waive all rights to appeal or otherwise challenge or contest the validity of this Stipulation and Order.

11. This Stipulation and Order shall in no way be deemed an admission of culpability, liability, or guilt on behalf of the Parties, or any of their respective agents, officers, or employees, past and present.

12. Further, this Stipulation and Order shall in no way constitute any reflection upon the merits of any petition, claim and/or defenses that may be asserted respectively by the Parties.


13. Each party shall bear its own costs and fees, including attorney's fees.

14. This Court will have exclusive jurisdiction over the interpretation and enforcement of this Stipulation and Order.

15. The signature pages of this stipulation may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. A facsimile or electronic image of the original signature of any party executing this Stipulation and Order shall be deemed an original signature, and shall constitute an original as against the party whose signature appears in the facsimile or electronic image.

16. This Stipulation and Order constitutes the complete agreement between the Parties and may not be amended except by written consent of the Parties.

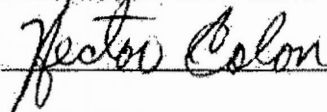
DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: 
Adam Hobson
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2484

1/19/2024

DATE

KING'S DISCOUNT & 99 CENT STORE

By: 

01-13-2024
DATE

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

By: 

Anthony J. Iacullo, Esq.
Attorney for King's Discount
Iacullo Martino & Reinitz, LLC
247 Franklin Avenue Nutley, NJ 07110
(973) 235-1550

1/13/24
DATE

ENVIOS DE VALORES LA NACIONAL, CORP.
D/B/A LA NACIONAL

By: 

Yolanda Martinez

1/16/24
DATE


By: 

James V. Pomaco, Esq.
Attorney for La Nacional
247 Franklin Avenue Nutley, NJ 07110
(973) 235-1550

1/16/24
DATE

The hearing scheduled for Friday, February 1, 2024, at 2:00 P.M. is CANCELED. The Clerk of Court is respectfully directed to terminate the open motion at Dkt. 433.

SO ORDERED:


HONORABLE VALERIE E. CAPRONI
UNITED STATES DISTRICT JUDGE

1/19/2024

DATE